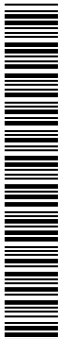


**AMENDMENT TO THE COMMERCE, JUSTICE,  
STATE, AND JUDICIARY APPROPRIATIONS  
BILL, 2005**

**OFFERED BY MR. TIAHRT**

Page 16, strike the proviso beginning on line 17 and insert “*Provided further*, That no funds appropriated under this or any other Act with respect to any fiscal year may be used to disclose part or all of the contents of the Firearms Trace System database maintained by the National Trace Center of the Bureau of Alcohol Tobacco, Firearms, and Explosives or any information required to be kept by licensees pursuant to section 923(g) of title 18, United States Code, or required to be reported pursuant to paragraphs (3) and (7) of such section 923(g), to anyone other than a Federal, State or local law enforcement agency or a prosecutor solely in connection with and for use in a bona fide criminal investigation or prosecution and then only such information as pertains to the geographic jurisdiction of the law enforcement agency requesting the disclosure and not for use in any civil action or proceeding other than an action or proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, or a review of such an action or proceeding, to enforce the provisions of chapter 44 of such title, and all such data shall be immune from



legal process and shall not be subject to subpoena or other discovery in any civil action in a State or Federal court or in any administrative proceeding other than a proceeding commenced by the Bureau of Alcohol, Tobacco, Firearms, and Explosives to enforce the provisions of that chapter, or a review of such an action or proceeding; except that this proviso shall not be construed to prevent the disclosure of statistical information concerning total production, importation, and exportation by each licensed importer (as defined in section 921(a)(9) of such title) and licensed manufacturer (as defined in section 921(a)(10) of such title):”.

Conform page 29 of the Committee Report by striking clause (6) of the 4th undesignated paragraph under the heading “Bureau of Alcohol, Tobacco, Firearms and Explosives—salaries and expenses”, and inserting at the appropriate place the following:

1        In the last two fiscal years the Committee has ex-  
2   pressed serious concern that, contrary to provisions of the  
3   Gun Control Act, as amended, and Congress’ intent, cer-  
4   tain sensitive law enforcement information contained in  
5   databases maintained by the Bureau of Alcohol, Tobacco,  
6   Firearms and Explosives (ATF) have been subject to re-  
7   lease under the Freedom of Information Act (FOIA) and



1 through court action to the public, including civil litigants,  
2 firearm manufacturers and distributors, public interest  
3 groups and governmental entities, for use other than in  
4 bona fide criminal investigations and prosecutions. The  
5 Committee concern is not related to budgetary consider-  
6 ations. The intent has been to enforce existing Federal  
7 law limiting disclosure of this sensitive law enforcement  
8 information solely to law enforcement, and, to the extent  
9 current Federal law does not already so restrict disclosure  
10 to so provide now.

11       It is of great concern that releases have occurred, and  
12 if repeated, may result in wide-spread disclosure of this  
13 information to the public at large. This holds the potential  
14 of endangering law enforcement officers and witnesses,  
15 jeopardizing on-going criminal investigations and home-  
16 land security. The need to maintain these sensitive law  
17 enforcement databases on a restricted, confidential basis  
18 in accordance with the law and ATF disclosure practices  
19 in place for years derives from the sensitive and long-term  
20 nature of criminal investigations. In addition, such infor-  
21 mation, once released, might easily be disseminated  
22 through the Internet. This would endanger law enforce-  
23 ment and homeland security, and violate the privacy of  
24 innocent citizens and businesses.



1       The Committee is concerned by recent actions in Fed-  
2 eral courts in which litigants have tried to nullify the effect  
3 of the language that was enacted to ensure the confiden-  
4 tiality of this information. The Committee therefore in-  
5 cludes language (Section —————) to make clear that  
6 ATF shall not make these law enforcement records avail-  
7 able to anyone other than to law enforcement agencies for  
8 a bona fide criminal investigation. The language makes  
9 clear that applicable law enforcement records may be used  
10 by ATF in civil enforcement proceedings (such as license  
11 revocations) authorized by the Gun Control Act (chapter  
12 44 of title 18, United States Code).

13       At the same time, the Committee is concerned that  
14 the previous language has been interpreted to prevent pub-  
15 lication of a long-running series of statistical reports on  
16 products regulated by ATF. This was never the intention  
17 of the Committee, and the new language should also make  
18 clear that those reports may continue to be published in  
19 their usual form as they pose none of the concerns associ-  
20 ated with law enforcement sensitive information.

